

Advisory Committee on Appellate Rules Table of Agenda Items — May 2005

<u>FRAP Item</u>	<u>Proposal</u>	<u>Source</u>	<u>Current Status</u>
00-03	Amend FRAP 26(a)(4) & 45(a)(2) to use “official” names of legal holidays.	Jason A. Bezis	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/00</p> <p>Discussed and retained on agenda 04/01</p> <p>Draft approved 04/02 for submission to Standing Committee</p> <p>Approved for publication by Standing Committee 06/03</p> <p>Published for comment 08/03</p> <p>Approved by Advisory Committee 04/04</p> <p>Approved by Standing Committee 06/04</p> <p>Approved by Judicial Conference 09/04</p> <p>Approved by Supreme Court 04/05</p>
00-08	Amend FRAP 4(a)(6) to clarify whether a moving party “receives notice” of the entry of a judgment when that party learns of the judgment only through a verbal communication.	Hon. Stanwood R. Duval, Jr. (E.D. La.)	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/01</p> <p>Discussed and retained on agenda 04/02</p> <p>Discussed and retained on agenda 11/02</p> <p>Draft approved 05/03 for submission to Standing Committee</p> <p>Approved for publication by Standing Committee 06/03</p> <p>Published for comment 08/03</p> <p>Approved with changes by Advisory Committee 04/04</p> <p>Approved by Standing Committee 06/04</p> <p>Approved by Judicial Conference 09/04</p> <p>Approved by Supreme Court 04/05</p>
00-11	Amend FRAP 35(a) to provide that disqualified judges should not be considered in assessing whether “[a] majority of the circuit judges who are in regular active service” have voted to hear or rehear a case en banc.	Hon. Edward E. Carnes (CA11)	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/01; awaiting report from Federal Judicial Center</p> <p>Discussed and retained on agenda 04/02</p> <p>Discussed and retained on agenda 11/02</p> <p>Draft approved 05/03 for submission to Standing Committee</p> <p>Approved for publication by Standing Committee 06/03</p> <p>Published for comment 08/03</p> <p>Approved with changes by Advisory Committee 04/04</p> <p>Approved by Standing Committee 06/04</p> <p>Approved by Judicial Conference 09/04</p> <p>Approved by Supreme Court 04/05</p>

00-12	Amend FRAP 28, 31 & 32 to specify the length, timing, and cover colors of briefs in cases involving cross-appeals.	Solicitor General	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/01; awaiting revised proposal from Department of Justice</p> <p>Discussed and retained on agenda 04/02</p> <p>Draft approved 11/02 for submission to Standing Committee</p> <p>Approved for publication by Standing Committee 06/03</p> <p>Published for comment 08/03</p> <p>Approved with changes by Advisory Committee 04/04</p> <p>Approved by Standing Committee 06/04</p> <p>Approved by Judicial Conference 09/04</p> <p>Approved by Supreme Court 04/05</p>
01-01	Add rule to regulate the citation of unpublished and non-precedential decisions.	Solicitor General	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/01</p> <p>Discussed and retained on agenda 04/02</p> <p>Discussed and retained on agenda 11/02</p> <p>Draft approved 05/03 for submission to Standing Committee</p> <p>Approved for publication by Standing Committee 06/03</p> <p>Published for comment 08/03</p> <p>Approved with changes by Advisory Committee 04/04</p> <p>Standing Committee returned to Advisory Committee for further study 06/04; referred to Federal Judicial Center for study</p> <p>Approved with further changes by Advisory Committee 04/05</p>
01-03	Amend FRAP 26(a)(2) to clarify interaction with "3-day rule" of FRAP 26(c).	Roy H. Wepner, Esq.	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/01</p> <p>Referred to Civil Rules Committee 04/02</p> <p>Draft approved 11/03 for submission to Standing Committee</p>
02-01	Amend FRAP 27(d) to apply typeface and type-style limits of FRAP 32(a)(5)&(6) to motions.	Charles R. Fulbruge III (CA5 Clerk)	<p>Awaiting initial discussion</p> <p>Discussed and retained on agenda 04/02</p> <p>Draft approved 11/02 for submission to Standing Committee</p> <p>Approved for publication by Standing Committee 06/03</p> <p>Published for comment 08/03</p> <p>Approved by Advisory Committee 04/04</p> <p>Approved by Standing Committee 06/04</p> <p>Approved by Judicial Conference 09/04</p> <p>Approved by Supreme Court 04/05</p>

02-16	Amend FRAP 28 to eliminate local rule variations regarding contents of briefs.	ABA Council of Appellate Lawyers	Awaiting initial discussion Discussed and retained on agenda 11/02; awaiting proposal from Department of Justice Discussed and retained on agenda 11/03; referred to Federal Judicial Center for study Discussed and retained on agenda 11/04 Discussed and retained on agenda 04/05
02-17	Amend FRAP 32 to eliminate local rule variations regarding contents of covers of briefs.	ABA Council of Appellate Lawyers	Awaiting initial discussion Discussed and retained on agenda 11/02; awaiting proposal from Department of Justice Discussed and retained on agenda 11/03; referred to Federal Judicial Center for study Discussed and retained on agenda 11/04 Discussed and retained on agenda 04/05
03-02	Amend FRAP 7 to clarify whether reference to "costs" includes only FRAP 39 costs.	Advisory Committee	Awaiting initial discussion Discussed and retained on agenda 05/03 Draft approved 11/03 for submission to Standing Committee
03-09	Amend FRAP 4(a)(1)(B) & 40(a)(1) to clarify treatment of U.S. officer or employee sued in individual capacity.	Solicitor General	Awaiting initial discussion Discussed and retained on agenda 11/03; awaiting revised proposal from Department of Justice Tentative draft approved 04/04 Revised draft approved 11/04 for submission to Standing Committee
03-10	Add new FRAP 25.1 to "protect privacy and security concerns relating to electronic filing of documents," as directed by E-Gov't Act.	E-Government Subcommittee	Awaiting initial discussion Discussed and retained on agenda 04/04 Discussed and retained on agenda 11/04 Draft approved 04/05 for submission to Standing Committee
04-04	Amend FRAP 25(a) to authorize courts to mandate electronic filing.	Hon. John W. Lungstrum (D. Kan.) on behalf of CACM	Awaiting initial discussion Draft approved 11/04 for submission to Standing Committee Approved for publication by Standing Committee 11/04 Published for comment 11/04 Approved with changes by Advisory Committee 04/05
05-01	Amend FRAP 21 & 27(c) to conform to Justice for All Act of 2004.	Advisory Committee	Awaiting initial discussion Discussed and retained on agenda 04/05; awaiting proposal from Department of Justice

<u>FRAP Item</u>	<u>Proposal</u>	<u>Source</u>	<u>Current Status</u>
05-04	Amend FRAP 41 to address <i>Bell v. Thompson</i> issue.	John G. Kester, Esq.	Awaiting initial discussion